

House Bill 938

By: Representatives Peake of the 137th, Rice of the 51st, Ramsey of the 72nd, Lindsey of the 54th, Williams of the 178th, and others

A BILL TO BE ENTITLED
AN ACT

To amend Title 40 of the Official Code of Georgia Annotated, relating to motor vehicles and traffic, so as to change certain provisions relating to suspension or revocation of the licenses of habitually negligent or dangerous drivers and the point system; to change certain provisions relating to drivers' exercise of due care; to prohibit use of wireless telecommunications devices for sending or reading text messages while operating a motor vehicle; to provide penalties for violations; to provide for related matters; to provide an effective date; to repeal conflicting laws; and for other purposes.

BE IT ENACTED BY THE GENERAL ASSEMBLY OF GEORGIA:

SECTION 1.

Title 40 of the Official Code of Georgia Annotated, relating to motor vehicles and traffic, is amended by revising subparagraph (c)(1)(A) of Code Section 40-5-57, relating to suspension or revocation of the licenses of habitually negligent or dangerous drivers and the point system, as follows:

"(c)(1)(A) Except as provided in subparagraph (C) of this paragraph, the points to be assessed for each offense shall be as provided in the following schedule:

- Aggressive driving. 6 points
- Reckless driving. 4 points
- Unlawful passing of a school bus. 6 points
- Improper passing on a hill or a curve. 4 points
- Exceeding the speed limit by more than 14 miles per hour but less than 19 miles per hour. 2 points
- Exceeding the speed limit by 19 miles per hour or more but less than 24 miles per hour. 3 points
- Exceeding the speed limit by 24 miles per hour or more but less than 34 miles per hour. 4 points
- Exceeding the speed limit by 34 miles per hour or more. 6 points

27	Disobedience of any traffic-control device or traffic officer.	3 points
28	Too fast for conditions.	0 points
29	Possessing an open container of an alcoholic beverage while driving.	2 points
30	Failure to adequately secure a load, except fresh farm produce,	
31	resulting in loss of such load onto the roadway which results in	
32	an accident.	2 points
33	Violation of child safety restraint requirements, first offense.	1 point
34	Violation of child safety restraint requirements, second or	
35	subsequent offense.	2 points
36	<u>Violation of engaging in wireless communications while</u>	
37	<u>using wireless telecommunications device requirements (text</u>	
38	<u>messaging).</u>	2 points
39	All other moving traffic violations which are not speed limit	
40	violations.. . . .	3 points"

41 SECTION 2.

42 Said title is further amended by inserting a new Code section to read as follows:

43 "40-5-57.4.

44 (a) The driver's license of any operator of a motor vehicle who is determined to be at fault
 45 for causing an automobile accident while violating Code Section 40-6-241.1 shall be
 46 suspended as provided in this Code section. The person shall submit the driver's license
 47 to the court upon conviction, and the court shall forward the driver's license to the
 48 department. If the driver's license is not submitted to the court at the time of conviction,
 49 the person shall submit the driver's license to the department upon receiving proper notice
 50 of the suspension pursuant to the provisions of this chapter.

51 (b)(1) A first suspension of a driver's license under this Code section shall be for a period
 52 of 90 days.

53 (2) A second or subsequent suspension of a driver's license under this Code section shall
 54 be for a period of six months.

55 (c) The suspension shall terminate after the suspension period and when the person pays
 56 a restoration fee of \$60.00 or, when processed by mail, \$50.00, and the department shall
 57 return the person's driver's license to such person."

58 SECTION 3.

59 Said title is further amended by revising Code Section 40-6-241, relating to drivers' exercise
 60 of due care and proper use of radios and mobile telephones, as follows:

"40-6-241.

A driver shall exercise due care in operating a motor vehicle on the highways of this state and shall not engage in any actions which shall distract such driver from the safe operation of such vehicle, provided that, except as prohibited by Code Section 40-6-241.1, the proper use of a radio, citizens band radio, or mobile telephone, or amateur or ham radio shall not be a violation of this Code section."

SECTION 4.

Said title is further amended by inserting a new Code section to read as follows:

"40-6-241.1.

(a) As used in the Code section, the term:

(1) 'Wireless communication' means writing, sending, or reading a text-based communication on a wireless telecommunications device.

(2) 'Wireless telecommunications device' means a cellular telephone, a text-messaging device, a personal digital assistant, a stand alone computer, or any other substantially similar wireless device that is used to initiate or receive a wireless communication with another person. It does not include citizens band radios, citizens band radio hybrids, commercial two-way radio communication devices, subscription-based emergency communications, in-vehicle security, navigation, and remote diagnostics systems, or amateur or ham radio devices.

(b) Except in a driver emergency and as provided in subsection (c) of this Code section, no person shall operate a motor vehicle on any public road or highway of this state while engaging in a wireless communication using a wireless telecommunications device.

(c) The provisions of this Code section shall not apply to a person who engages in a wireless communication using a wireless telecommunications device to do any of the following:

(1) Report a traffic accident, medical emergency, or serious road hazard;

(2) Report a situation in which the person believes his or her personal safety is in jeopardy;

(3) Report or avert the perpetration or potential perpetration of a criminal act against the driver or another person; or

(4) Engage in a wireless communication while the motor vehicle is lawfully parked.

(d)(1) Any conviction for a violation of the provisions of this Code section shall be punishable by a fine of not less than \$50.00 nor more than \$100.00. The provisions of Chapter 11 of Title 17 and any other provision of law to the contrary notwithstanding, the costs of such prosecution shall not be taxed nor shall any additional penalty, fee, or surcharge to a fine for such offense be assessed against a person for conviction thereof.

The court imposing such fine shall forward a record of the disposition of the case of unlawfully operating a motor vehicle while using a wireless telecommunications device to the Department of Driver Services.

(2) If the operator of the moving motor vehicle is determined to be at fault for causing an automobile accident at the time of a violation of this Code section, the fine shall be equal to double the amount of the fine imposed in paragraph (1) of this subsection and the operator's driver's license shall be suspended pursuant to the provisions of Code Section 40-5-57.4. The law enforcement officer investigating the accident shall indicate on the written accident form whether such operator was engaging in a wireless communication at the time of the accident."

SECTION 5.

This Act shall become effective on July 1, 2010, and shall apply to offenses committed on or after such date.

SECTION 6.

All laws and parts of laws in conflict with this Act are repealed.